

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION
ORDER BY CONSENT
ISSUED TO**

**Motiva Enterprises LLC
Fairfax Terminal, Fairfax City, Virginia
3800 Pickett Road
Fairfax City, Virginia 22031**

DEQ Registration #70248

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1307.D and 10.1-1309, between the State Air Control Board and Motiva Enterprises LLC, for the purpose of resolving certain alleged violations of air permit requirements as specified in Section C of this Order.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.

5. “Order” or “CO” means this document, also known as a Consent Order.
6. “SAPCB Regulations” mean the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution.
7. “Motiva Enterprises” means Motiva Enterprises LLC, a Delaware Corporation certified to do business in Virginia.
8. “Facility” means Motiva Enterprises LLC’s Fairfax Terminal, located at 3800 Pickett Road, Fairfax City, Virginia 22031 (Fairfax City).
9. “VOC” means Volatile Organic Compound, a precursor of the criteria pollutant ozone..
10. “VRU” means the Twin Edward’s refrigeration vapor recovery units utilized by Motiva Enterprises as an emission control device.
11. “NVRO” means the Northern Virginia Regional Office of the Virginia Department of Environmental Quality.
12. “TOC” means Total Organic Compounds.

SECTION C: Findings of Fact and Conclusions of Law

1. Motiva Enterprises owns and operates a petroleum product distribution terminal located at 3800 Pickett Road, Fairfax City, Virginia. This facility is the subject of the Virginia Title V Operating Permit issued April 14th, 2000.
2. On October 30, 2001, a compliance test was performed by Pace Environmental Products, Inc. of Whitehall, Pennsylvania, on the VRU located at the Pickett Road Tank Farm, Fairfax City, Virginia, that is utilized by Motiva Enterprises LLC, Citgo Petroleum Corporation, and Old Dominion Terminal to determine the emission rate from the VRU.
3. On February 4, 2002, DEQ NVRO staff reviewed a stack test report from the October 30, 2001 testing and, in addition, reviewed the Motiva Enterprises Title V permit. Review of the report showed an emission rate of 14.28 mg/l loaded which exceeded the emission limit of 10 mg/l loaded specified in the Title V Operating permit, it was also noted that the VRU was not equipped with a suitable monitoring device to measure Total Organic Compound (TOC) concentration in the outlet vent or stack of these units. Section II E.2a(4). of Motiva Enterprises’ Title V Operating Permit States: “The total organic compound (TOC) emissions from the VRU shall not exceed 10 milligrams per liter (mg/l) of gasoline loaded.” (9 VAC 5-80-100A, and Condition 7 of the Stationary Source Permit dated

December 13, 1994 as amended April 2, 1998) And, Condition 2.E.2.c.(1) of the Title V Permit that states “Volatile organic compound and total organic compound emissions through the vapor recovery unit (VRU) must be monitored by either a flame ionization detector (FID) or a photoionization detector (PID). The control equipment sensor shall be located in the outlet duct or stack, and the frequency of testing shall be hourly, testing may be performed manually, or it may be continuous on a chart, or by data acquisition. The sensor shall measure total organic compounds (TOC) rather than individual organic compounds. The equipment shall be operated according to the manufacturer’s instructions. (9 VAC 5-80-110 B)”

4. On February 26, 2002, Ms. Nicola Ellis of Motiva Enterprises contacted Mr. David Hartshorn, DEQ – NVRO, to report that Motiva Enterprises LLC – Fairfax Terminal did not submit an Annual Title V Certification for the period of January 1, 2000 through December 31, 2000. Condition III.B.3. of the Title V air permit states “Exclusive of any other reporting required to assure compliance with the terms and conditions of this permit or as a part of a schedule of compliance contained in this permit, the permittee shall submit to Compliance Manager, Northern Virginia Regional Office and to EPA at the following address:

Clean Air Act Title V Compliance Certification (3AP00)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Notice must be sent no later than **MARCH 1** each calendar year, certification of compliance with all terms and conditions of this permit including emission limitation standards or work practices. The compliance certification shall comply with such additional requirements that may be specified pursuant to §114 (a)(3) and §504 (b) of the federal Clean Air Act. This certification shall be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include:...”

5. On April 18, 2002 a Notice of Violation was issued to Motiva Enterprises, LLC for the alleged violations of SAPCB Regulations and applicable permit conditions.
6. In a report dated September 26, 2002, Motiva Enterprises indicates that the appropriate monitoring device has been installed.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §10.1-1316(C), the Board orders, and Motiva Enterprises LLC agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Motiva Enterprises LLC to pay a civil charge of Fourteen Thousand Three Hundred Thirty Three (\$14,333.00) within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Motiva Enterprises, for good cause shown by Motiva Enterprises LLC, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Motiva Enterprises by DEQ on April 18, 2002. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Motiva Enterprises admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Motiva Enterprises consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Motiva Enterprises declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Motiva Enterprises to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Motiva Enterprises shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Motiva Enterprises shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Motiva Enterprises shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Motiva Enterprises. Notwithstanding the foregoing, Motiva Enterprises agrees to be bound by any compliance date that precedes the effective date of this Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Motiva Enterprises. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Motiva Enterprises from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Motiva Enterprises voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2002.

Robert G. Burnley, Director
Department of Environmental Quality

Motiva Enterprises voluntarily agrees to the issuance of this Order.

By: _____

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this ____ day of

_____, 2002, by _____, who is
(name)

_____ of Motiva Enterprises.
(title)

Notary Public

My commission expires: _____.

APPENDIX A

Motiva Enterprises shall within 30 days of the execution of this order:

1. Make effective all necessary installations, maintenance, and testing to bring the twin Edward's Vapor Recovery Units into compliance with the monitoring requirements stated in the Title V Operating Permit dated April 14th, 2000.
2. Establish a data collection and management system to prevent any further mishaps in submission of required compliance documentation.
3. Submit an Annual Title V Certification for the period of January 1, 2000 through December 31, 2000

Within 30 days of the completion of these steps, Motiva Enterprises shall notify, in writing, the Air Compliance Manager, DEQ-NVRO.